IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5440 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Or 3

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service of rule.

2. In this petition under Article 226 of the Constitution, the petitioner has challenged the order dated 11.1.2000 (at annexure "D" to the petitoin) of Sub Divisional Magistrate, Mehsana as confirmed by the District Magistrate, Mehsana in Arms Appeal No.SR 7/2000 on 14.3.2000 (at Annexure "G" to the petition) cancelling the arms licence held by the petitioner.

3. Various contentions are raised in support of the petitioner's challenge to the impugned orders. Affidavit in reply has been filed by the Sub Divisional Magistrate in support of his order. It is, however, not necessary to go into the merits of the contentions of the petitioner or the merits of the defences raised by the Sub Divisional Magistrate. The petitioner's appeal was fixed for hearing on 14.3.2000 and on that day the petitioner could not remain present and sent application for adjournment along with a medical certificate. However, the District Magistrate proceeded with the hearing of the appeal and on merits dismissed the appeal by the impugned order at annexure "G" to the petition. However, grievance of the petitioner is that apart from the fact the petitioner not having been heard by the District Magistrate, the Sub Divisional Magistrate had not even issued any notice to the petitioner to show cause why the licence of the petitioner should not be cancelled.It is submitted that if the petitioner had been given this opportunity, the petitioner would have placed necessary material on record to show that the licence in question was renewed from time to time till 31.12.1999, and that the licence was renewed even for the period between 31.12.1993 to January, 1995. He submitted that if the petitioner had been given notice of hearing by the Sub Divisional Magistrate all these facts could have been brought to the notice of the authorities.

4. In view of the above submissions, this petition is allowed and the impugned orders, dated 11.1.200 at annexure "D" and 14.3.2000 at annexure "G" to the petition are hereby quashed and the matter is remanded to the Sub Divisional Magistrate who shall issue a fresh notice to the petitioner and shall give reasonable opportunity of being heard to the petitioner and to produce necessary evidence in support of his case and thereafter decide the matter in accordance with law.

5. Rule is made absolute in terms of aforesaid directions. There shall be no order as to costs. Direct service is permitted.

9.8.2000 (M.S.SHAH,J)